

Dec 03, 2018

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DEBRA LYNN G.,

Plaintiff,

V.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

No. 2:17-CV-00321-RHW

**ORDER GRANTING STIPUALTED  
RULE 59(e) MOTION AND  
AMENDING PREVIOUS ORDER**

BEFORE THE COURT is the parties' Stipulated Rule 59(e) Motion brought pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. ECF No. 24. The Court has reviewed the filings in this case and **GRANTS** this motion and amends its previous order, ECF No. 23.

## BACKGROUND

On September 14, 2017, Plaintiff filed her complaint in this matter, seeking judicial review of the Commissioner's denial of Social Security benefits. ECF No. 3. The parties subsequently filed a stipulated motion for remand on May 25, 2018,

1 ECF No. 19, which the Court granted on June 4, 2018, ECF No. 20. On the same  
2 day, judgment was entered in favor of Plaintiff and against the Commissioner. ECF  
3 No. 21.

4 On August 16, 2018, Plaintiff filed a motion for attorney's fees pursuant to  
5 EAJA, along with a Stipulation for Attorney Fees, Expenses, and Costs. ECF No.  
6 22 at 1-8, 14-15. Plaintiff requested payment for 4.60 of attorney hours in 2017,  
7 calculated at \$196.79 per hour, and 24.15 hours of attorney time in 2018,  
8 calculated at \$200.78 per hour. *Id.* at 3. The total requested in fees was \$5,754.07.  
9 *Id.* Plaintiff also requested \$15.99 in expenses and \$5.00 in costs. *Id.* at 2. The  
10 Court granted Plaintiff's motion, ECF No. 22, on October 11, 2018. ECF No. 23.  
11 This order serves to amend the original order granting Plaintiff's motion for EAJA  
12 fees due to an error in the order.

13 **DISCUSSION**

14 Rule 59(e) of the Federal Rules of Civil Procedure allows for amendment or  
15 alteration of a judgement if the district court: (1) is presented with new evidence,  
16 (2) committed clear error or the initial decision was manifestly unjust, or (3) if  
17 there is an intervening change in controlling law. *School Dist. No. 1J v. AC and S,*  
18 *Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). In its previous order, ECF No. 23, the  
19 Court erroneously assigned payment of attorney fees, expenses, and costs to  
20 Plaintiff's attorney. *Id.* at 4. Because there was no assignment of fees in Plaintiff's

1 fee agreement with her attorney, ECF No. 22 at 13, payment of the award should  
2 have been made to Plaintiff, it is appropriate under Rule 59(c) for the Court to  
3 amend and correct the error.

4 Having reviewed the motion, the Court finds good cause to **GRANT** this  
5 motion.

6 Accordingly, **IT IS ORDERED:**

- 7 1. Parties' Stipulated Rule 59(e) Motion, **ECF No. 24**, is **GRANTED**.
- 8 2. The Court's previous order, ECF No. 23, is amended and Commissioner  
9 is directed to pay Plaintiff EAJA fees in the amount of \$5,754.07, mail  
10 expenses of \$15.99, and copying costs of \$5.00.
- 11 3. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586 (2010), payment of the award,  
12 after offset of qualifying federal debt under the Treasury Offset Program,  
13 shall be made payable to Plaintiff. The payment shall be mailed to Plaintiff's  
14 attorney: David L. Lybbert, at P.O. Drawer 1429, Moses Lake, Washington  
15 98837.

16 **IT IS SO ORDERED.** The District Court Executive is directed to enter this  
17 Order, forward copies to counsel and **close the file**.

18 **DATED** this 3rd day of December 2018.

19  
20 *s/Robert H. Whaley*  
ROBERT H. WHALEY  
Senior United States District Judge